

March 2004

Update: Criminal Procedure Monograph 2—Issuance of Search Warrants (Revised Edition)

Part A — Commentary

2.5 Description of Property to be Seized

Insert the following paragraph after the first paragraph on page 10:

Where an officer, pursuant to a warrant, was conducting a search of the defendant's home for "[e]vidence of a fatal shooting including but not limited to any and all weapons and ammunition, spent casings, blood and/or any objects which may be on the premises which appear to have blood stains upon them . . . [,]" the officer's seizure of incriminating items contained in an expandable file folder in a closet in the defendant's home office was proper under the plain view doctrine. *People v Fletcher*, ___ Mich App ___, ___ (2004). Although the items seized from the defendant's office were not bloodstained, the officer seized the items because their incriminating nature was immediately apparent—the defendant's wife had been murdered in the home, and the file folder contained photographs of, and romantic letters from, a woman the officer recognized as a district court judge. *Fletcher, supra* at _____. Even though the items seized were not described in the warrant authorizing the officer's search, the items were properly seized because the officer was lawfully in the position from which he viewed the incriminating evidence. *Fletcher, supra* at _____.